

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CAROL S VAUGHN, et al., in her
representative capacity as Personal
Representative of the ESTATE OF
MICHAEL COHEN,

Case No. 3:23-cv-06142-TMC

ORDER DENYING MOTION TO STRIKE

Plaintiff
Counter Defendant
Third Party Defendant
Cross Defendant,

V.

LOREN COHEN, et al.,

Defendants Counter Plaintiffs

* * *

WILLIAM NEWCOMER,

Plaintiff
Counter Defendant,

V.

LOREN COHEN, et al..

Defendants
Counter Plaintiffs
Third Party Plaintiffs,

V.

1 AMARA COHEN, individually, and SUSAN
 2 COHEN, Trustee of the Michael Arthur
 3 Cohen Spousal Equivalent Access Trust,
 4 CAROL VAUGHN, individually, and in her
 5 representative capacity as Personal
 6 Representative of the ESTATE OF
 MICHAEL COHEN, UNITED STATES OF
 AMERICA (DEPARTMENT OF
 INTERNAL REVENUE), and BR
 NEWCOMER, LLC

7 Third Party Defendants
 8 Counter Defendants
 Counter Plaintiffs.

9 10 I. ORDER

11 Before the Court is Carol Vaughn's motion to strike Loren Cohen's¹ contemporaneous
 12 dispositive motions and *Daubert* motions. Dkt. 153. Ms. Vaughn, the personal representative of
 13 the Estate, asks the Court to strike Loren's two² pending dispositive motions (Dkt. 131, 142) for
 14 violating LCR 7(e)(3) and three *Daubert* motions (Dkt. 135, 139, 140) for being frivolous.
 15 Vaughn further requests that the Court sanction Loren's counsel and award attorney's fees
 16 pursuant to 28 U.S.C. § 1927. For the following reasons, the Court DENIES the motion.

17 Local Civil Rule 7(e)(3) provides, “[a]bsent leave of the court, a party must not file
 18 contemporaneous dispositive motions, each one directed toward a discrete issue or claim.” Local

19
 20 ¹ As with its prior orders in this case, to avoid confusion, the Court refers to members of the
 Cohen family by their first names.

21
 22 ² While this motion was pending, the Court denied Loren's motion to strike the first, second, and
 23 third causes of action in the Third Amended Complaint. *See* Dkt. 156. On January 9, 2025, Loren
 24 (and other parties affiliated with Loren) and William Newcomer informed the Court they had
 reached a settlement agreement, which includes a dismissal of their claims against each other
 with prejudice. *See* Dkt. 174. This resolved Loren's pending motion on Newcomer's claims
 (Dkt. 134). Therefore, as of this order, there are only two dispositive motions at issue. *See*
 Dkt. 131; Dkt. 142.

1 Civ. R. 7(e)(3); *see Inst. of Cetacean Rsch. v. Sea Shepherd Conservation Soc'y*, 153 F. Supp. 3d
 2 1291, 1321 (W.D. Wash. 2015) ("This rule seeks to avoid the inefficiencies caused by
 3 duplicative dispositive motions and circumvention of the court's page limits.").

4 Vaughn argues that Loren violated LCR 7(e)(3) by filing contemporaneous dispositive
 5 motions that seek "dismissal of discrete issues or claims." Dkt. 153 at 7. Since Loren did not
 6 seek leave of the Court before filing separate dispositive motions, Vaughn asks the Court to
 7 strike the later-filed motion or order Loren to refile them as one. *Id.*

8 Loren's filings are not inconsistent with LCR 7(e)(3) because each motion is directed
 9 towards different parties with different claims in this consolidated case. When this case was
 10 consolidated in October 2023, the Pierce County Superior Court noted in its order that "[t]he
 11 causes of action pled shall maintain their separate character, including maintaining the parties to
 12 each separate cause of action." Dkt. 11-1 at 391. The two motions at issue are (1) a motion to
 13 strike Amara Cohen's and Susan Cohen's counterclaims against Loren Cohen and Holland
 14 Cohen and (2) a motion for summary judgment on Plaintiff Carol Vaughn's UVTA, undue
 15 influence, and breach of fiduciary duty claims. *See* Dkt. 131; Dkt. 142. Since both motions
 16 address distinct claims brought by separate parties, it is reasonable that Loren filed them
 17 separately for clarity and to comply with the consolidation order. Notably, Vaughn is unaffected
 18 by Loren's motion to strike, since she need only respond to the summary judgment motion
 19 directed at her claims.

20 Vaughn next argues that the Court should strike Loren's three *Daubert* motions as
 21 frivolous because "*Daubert* is meant to protect juries from being swayed by dubious scientific
 22 testimony" and this case will proceed with a bench trial. Dkt. 153 at 8. Despite Vaughn's
 23 emphasis on the "relaxed" gatekeeping function in bench trials, the Court will need to evaluate
 24 the reliability of the proposed expert testimony at some point—either before or at trial—and

1 Vaughn will not be prejudiced by the Court's consideration of those arguments now. *See Fed. R.*
 2 *Evid. 702.* If the motions are as meritless as Vaughn claims, responding to them should not be
 3 difficult. Since there is no prohibition against filing *Daubert* motions separately in advance of
 4 trial, the Court denies Vaughn's request to strike the three *Daubert* motions.

5 Finally, Vaughn requests sanctions against Loren and his counsel under 28 U.S.C.
 6 § 1927. Dkt. 153 at 13. The statute provides that “[a]ny attorney or other person admitted to
 7 conduct cases in any court of the United States . . . who so multiplies the proceedings in any case
 8 unreasonably and vexatiously may be required by the court to satisfy personally the excess costs,
 9 expenses, and attorneys' fees reasonably incurred because of such conduct.” 28 U.S.C. § 1927.
 10 To impose sanctions under Section 1927, the Court must make a finding that the attorney acted
 11 with subjective bad faith. *Pac. Harbor Cap., Inc. v. Carnival Air Lines, Inc.*, 210 F.3d 1112,
 12 1118 (9th Cir. 2000). “Knowing or reckless conduct meets this standard.” *Id.* At this stage, the
 13 record does not support a finding of subjective bad faith. If after reviewing the *Daubert* motions
 14 in full the Court believes Loren's attorneys may have violated their responsibilities under Federal
 15 Rule of Civil Procedure 11(b), the Court has the power to raise that issue on its own. *See Fed. R.*
 16 *Civ. P.* 11(c)(1).

17 II. CONCLUSION

18 For the foregoing reasons, the Court DENIES Vaughn's motion to strike Loren Cohen's
 19 contemporaneous dispositive motions and *Daubert* motions (Dkt. 153).

21 Dated this 13th day of January, 2025.

22 
 23 Tiffany M. Cartwright
 24 United States District Judge